

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 19189 of 2005(H)

PETITIONER:

C.M.GOPALAKRISHNA PRABHU,
AGED 61 YEARS, S/O.J.MADHAVA PRABHU,
CHANTHURUTHIL, VALAMANGALAM SUTH MURI,
THURAVOOR SOUTH VILLAGE.

BY ADV. SRI.T.M.ABDUL LATHEEF
SRI.A.MUHAMMED HASHIM

RESPONDENTS:

1. DISTRICT COLLECTOR, ALAPPUZHA.

2. TAHSILDAR, CHERTHALA.

3. NIMALA, W/O.KARTHIKEYAN,
MANAYIDAYIL, VALAMANGALAM SOUTH MURI,
THURAVOOR SOUTH VILLAGE.

R3 BY ADV. SRI.JOSHI N.THOMAS
R1 AND R2 BY GOVERNMENT PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE JUDGMENT DATED 17.11.2003 PASSED BY THE ADDL. MUNISFF COURT, CHERTHALA IN OS NO. 834 OF 2000

EXT.P2 TRUE COPY OF THE JUDGMENT DATED 10.10.2001 PASSED BY THIS HONOURABLE COURT IN W.A.NO. 3418 OF 2001

EXT.P3 TRUE COPY OF THE ORDER NO. K.DIS. 64161/2001/C1 DATED 17.6.2003 OF THE FIRST RESPONDENT.

EXT.P4 TRUE COPY OF THE APPLICATION DATED 25.10.2004 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF THE REPRESENTATION DATED 25.10.2004 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE ORDER NO. G.O.(MS) NO. 192/2005/REVENUE DATED 13.6.2005

EXT.P7 TRUE COPY OF THE CERTIFICATE NO. C1.276/03 DATED 15.10.2004 ISSUED BY THE THURAVOOR GRAMA PANCHAYAT.

EXT.P8 TRUE COPY OF RELEBANT PAGE OF THE RATION CARD NO. 1417033280 SHOWING THE NAME OF THE THIRD RESPONDENT.

EXT.P9 TRUE COPY OF RELEVANT PAGE OF THE VOTERS' LIST 2005 OF THURAVOOR PANCHAYAT.

EXT.P10 TRUE COPY OF THE SALE DEED NO. 1304/2002 DATED 27.6.2002

THIRD RESPONDENT'S EXHIBITS:

EXT.R1(1) TRUE COPY OF THE ORDER G.O. (MS) NO. 192/2005/REVENUE DATED THIRUVANANTHAPURAM, 13.6.2005.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 19189 OF 2005

Dated this the 5th day of February, 2007

JUDGMENT

Petitioner is challenging Ext.P6 order by which Government approved assignment of 3.97 ares of property to the third respondent. The property is excess land surrendered by the declarant under the Land Reforms Act and it was once assigned to one Mr. Soman rejecting the petitioner's application claiming assignment in his favour. However, the said Soman in violation of the conditions of assignment, transferred the property to the third respondent within two years of assignment and therefore the District Collector vide Ext.P3 order cancelled the assignment in favour of Mr. Soman. However, against this third respondent approached the Government stating that her husband was an agricultural worker who died and third respondent and her family are residing in the property after purchase from the assignee, namely, Mr. Soman. The Collector though cancelled the assignment in favour of transferee from assignee from whom third respondent purchased the property, reported to Government that third respondent is

eligible for assignment of property as she was residing there with family. Petitioner's case is that contentions of third respondent are incorrect and the injunction suit filed by her was dismissed by the Munsiff Court vide Ext.P1. Government Pleader submitted that petitioner's claim for assignment was considered at the time of original assignment and petitioner was found ineligible as he owns around 2 acres of land. Moreover this Court vide Ext.P2 judgment also rejected the petitioner's claim for assignment. The sole question therefore is whether Ext.P6 order issued by Government upholding third respondent's right to assignment is justified or not. On enquiry the Collector found that third respondent satisfies all the qualifications for assignment. I do not think there is any scope for considering the correctness of the allegations made by the petitioner. Since petitioner was found ineligible and third respondent is found eligible for assignment by Government, there is no scope for interference by this Court. W.P. is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge

